

CITY OF ROSWELL
SUBSTANCE ABUSE POLICY
PERSONNEL RULES AND REGULATIONS SUPPLEMENTAL RULE

1.0 INTRODUCTION AND OVERVIEW

- 1.1 The United States Department of Transportation (“DOT”) has issued regulations which govern the use of drugs and alcohol by DOT covered motor vehicle drivers, as defined herein, and which also require the City of Roswell (“City”) to conduct mandatory drug and alcohol testing of Commercial Driver’s Licence (“CDL”) drivers at the times and under the conditions described in the Substance Abuse Policy (“Policy”). The City may also elect to conduct drug and/or alcohol testing on other persons employed in non-DOT positions in the City and applicants for those positions. The City reserves the right to designate which positions shall be included in the program. For purposes of this policy, employees in such designated positions are referred to herein as “other employees”.
- 1.2 It is the City’s intention to comply fully with the DOT’s regulations governing drug and alcohol use and testing, and the requirements of DOT’s regulations have been incorporated into this Policy. It is also the City’s intention to comply with any other applicable laws governing drug and alcohol testing. In the event DOT’s regulations or applicable laws change, this Policy shall be deemed to have been amended automatically at that time, without the need for redrafting, in order to reflect and be consistent with DOT’s regulations and the law. In such case, the City reserves the right to apply the amended requirements immediately, and without giving prior notice to affected employees or applicants, unless such notice is required by DOT regulation or applicable law. The City also intends to comply with the applicable requirements of the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act, and the Family and Medical Leave Act and this Policy will be coordinated with those laws.
- 1.3 This Policy is not intended, and should not be construed, as an employment contract. Nothing in this Policy is meant to imply that the City is guaranteeing employment for anyone. This Policy does not constitute a contract between the City and any employee. The City reserves the right to amend, withdraw, modify, add to or act in contradiction to this Policy when it deems the same to be appropriate and no employee should rely upon the specific implementation of continuance of any part hereof. Final interpretation and implementation of any of the provisions set forth in this Policy is vested solely with the City.
- 1.4 Drug and alcohol testing is a condition of employment and will be conducted in accordance with this Policy on any current and prospective employee whose position requires a CDL or other employees so designated by the City.
- 1.5 All applicants for positions with the City which require a CDL or other employees will be notified of the City’s drug and alcohol use and testing policy at the time they apply for such position with the City.

- 1.6 The City has spent a great deal of time and effort in developing and implementing the terms, conditions and requirements of this Policy, whose terms, conditions, requirements and implementation comply with DOT regulations and other applicable laws.

2.0 DEFINITIONS OF TERMS USED IN THIS POLICY

- 2.1 The term “safety-sensitive function” means any of the following: (I) driving; (ii) the time spent waiting to be dispatched, whether on or in City property or other location, unless the driver has been relieved from duty; (iii) inspecting, servicing or conditioning equipment; (iv) being in or on a commercial motor vehicle; (v) loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, giving or receiving receipts for a shipment being loaded or unloaded; (vi) repairing, obtaining assistance, or attending a disabled vehicle.
- 2.2 The term “City business” includes, but is not limited to, work performed on or in City property including a City vehicle, work performed on or in a non-City vehicle being used for conducting City business; work performed by an employee at another location for which the employee is being paid by the City, and associated meal and break times.
- 2.3 The term “refusing to be tested” means any of the following: (I) failing to provide an adequate urine specimen for a drug test without a valid medical explanation; (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation; (iii) failing to provide a saliva sample if directed; (iv) failing to submit to a test as directed and when directed or (v) otherwise engaging in any conduct which clearly obstructs the testing process.
- 2.4 The term “Substance Abuse Professional” (SAP) means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.
- 2.5 The term “Driver” shall include any employee who may be required to operate a commercial motor vehicle. For purposes of this Policy, “Driver” does not apply to an employee of Pecos Trails Transit which is governed by its own Substance Abuse Policy.
- 2.6 The term “commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (I) has a gross combination weight rating of 11,794 or more kilograms (26,0001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating or more than 4,536 kilograms (10,000) pounds; or (ii) is designed to transport 16 or more passengers, including the driver; or (iii) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (59 CRT part 172, subpart F). For purposes of this Policy, “commercial motor vehicle” does not apply to vehicles of Pecos Trails Transit which is governed by its own Substance Abuse Policy.

- 2.7 The term “applicant” refers to individuals applying for either a position which requires a CDL or other positions designated by the City and current employees who are applying for a position which requires a CDL or other positions designated by the City and have not been tested. For purposes of this Policy, “applicant” does not refer to a person applying for a position with Pecos Trails Transit as it is governed by its own Substance Abuse Policy.

3.0 PROHIBITED DRUG AND ALCOHOL USE AND ACTIVITIES

- 3.1 The goal of this Policy is to ensure a drug and alcohol-free transportation and work environment, and to eliminate drug and alcohol related accidents, injuries, fatalities and damage to property.
- 3.2 In furtherance of the City’s goals, the conduct specified in Section 3.3 of this Policy is prohibited whenever a Driver or other employee is on duty; whenever a driver is performing, or just about to perform, a safety-sensitive function; whenever an other employee is performing, or just about to perform, a safety-sensitive function; whenever an other employee is otherwise engaged in City business; or at the times otherwise specified in this Policy.
- 3.3 The following conduct is strictly prohibited: (I) Drivers and other employees are prohibited from using, being under the influence of, or possessing illegal drugs; (ii) drivers and other employees are prohibited from using or being under the influence of legal drugs whose use can adversely affect the ability of the Driver or other employee to perform his job safely; (iii) Drivers and other employees are prohibited from selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs while on City time or property; (iv) Drivers are prohibited from using alcohol within four (4) hours of driving or performing any other safety-sensitive function; (v) Drivers and other employees are prohibited from using or being under the influence of alcohol at any time while driving or performing any other safety-sensitive function; (vi) Drivers are prohibited from possessing any amount of alcohol (including possessing medications which contain alcohol) while on duty or driving; (vii) testing positive for drugs or alcohol; (viii) refusing to be tested for drugs or alcohol; (ix) failing to submit to a drug or alcohol test as directed by the City; (x) failing to stay in contact with the City and its Medical Review Officer (MRO) while awaiting the results of a drug test; (xi) violating any applicable law governing the use of drugs or alcohol; (xii) doing anything to obstruct the City’s goals with respect to drugs and alcohol.
- 3.4 All Drivers and other employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction.
- 3.5 A Driver who violates these prohibitions will be subject to disciplinary action mandates by the DOT (described in Sections 7.1.3, 7.2.3 and 7.2.4 of this Policy). Drivers and other employees who violate these prohibitions will also be subject to disciplinary action by the City, up to and including discharge. In addition, any Driver or other employee who is convicted by the judicial system of an offense for a drug or alcohol-related matter may be subject to disciplinary action up to and including discharge.

4.0 TESTS REQUIRED

- 4.1 In general: The City is required by DOT to conduct tests under the following conditions or times: (I) before a Driver-applicant for an applicant position is hired or an existing non-Driver employee performs DOT driving duties (“pre-employment/pre-duty” drug testing only); (ii) for reasonable suspicion; (iii) following certain accidents (“post-accident” testing); (iv) on a random basis. In addition, DOT requires the City to conduct a “return-to-duty” test on any Driver who violates an act prohibited by Section 3.2 of this Policy, as one condition of being able to return to work. The City is also required to conduct unannounced tests on a Driver who is determined to have a drug or alcohol-related problem as one condition of that Driver continuing to work for the City (“follow-up”) testing. The City may elect to test other employees and applicants for other employee positions and additional tests for any employee. The City’s procedures and requirements for each test are discussed below.

4.2 Pre-Employment/Pre-Duty Testing

- 4.2.1 DOT requires a drug test be taken and passed before an applicant for a Driver position is hired. City Policy requires a drug test be taken and passed before an applicant for a Driver position is hired. This test is also required before any current employee in a non-Driver position will be assigned, promoted, demoted or transferred or otherwise permitted to operate a commercial motor vehicle on behalf of the City for the first time.
- 4.2.2 Prior to taking a pre-employment/pre-duty drug test, the applicant will be given forms notifying the applicant to report for a drug test, which include instructions and an explanation of the collection procedures for each test. The applicant will also be asked to execute the “General Consent and Release to be Tested for Drugs” form.
- 4.2.3 All offers by the City to hire or assign, promote, demote or transfer an applicant are conditioned upon the applicant: (I) executing the City’s “General Consent and Release to be Tested for Drugs” form; (ii) taking a pre-employment drug test required herein and passing the test; (iii) for Driver positions only, executing the City’s “Authorization to Obtain Past Drug and Alcohol Test Results” form (which authorizes the City to obtain all of the applicant’s past drug and alcohol test results, including any refusals to test, from each company for whom the applicant either worked, or took or refused to take a pre-employment/pre-duty test during the previous two years and the results of those tests including any refusals); (iv) for Driver positions only, passing the DOT-required physical exam; (v) complying with any other conditions or requirements of which the City advises the applicant at the time of the offer.
- 4.2.4 Any applicant who refuses or fails to execute the City’s “General Consent and Release to be Tested for Drugs” form, who refuses or fails to execute the City’s “Authorization to Obtain Past Drug and Alcohol Test Results” form as required herein, who refuses or fails to submit to a pre-employment/pre-duty drug test as directed, or whose test result is positive, will not be considered eligible to be hired by the City for a period of 120 days. A current employee who refuses or fails to

execute the City's "General Consent and Release to be Tested for Drugs" form, who refuses or fails to execute the City's "Authorization to Obtain Past Drug and Alcohol Test Results" form as required herein, who refuses or fails to submit to a pre-employment/pre-duty drug test as directed, or whose result is positive will not be considered qualified for the assignment, promotion, demotion or transfer and will also be subject to City discipline, up to and including discharge.

- 4.2.5 A non-employee applicant will only be notified of the results of his test if he submits a written request to the City for his results within sixty (60) days of being notified by the City of its hiring decision. A current employee will be notified only in the event of a positive test.

4.3 Post-Accident Testing

- 4.3.1 A Driver who is performing a safety-sensitive function must submit to a post-accident drug and a post-accident alcohol test as soon as possible after the occurrence of any accident that meets the description of Section 4.3.2 or Section 4.3.3 of this Policy (which may be referred to as a "DOT accident" when it relates to a Driver). Reasonable effort must be taken to complete the alcohol testing as soon as possible within two (2) hours. In the event alcohol testing cannot be done within two (2) hours, documentation must begin and testing should still be completed up to eight (8) hours following the accident, but the reason for the delay must be documented. After eight (8) hours, all attempts at alcohol testing must cease. Drug testing must be completed within thirty-two (32) hours, whether or not the alcohol testing has been done. In the event testing cannot be completed within thirty-two (32) hours, documentation must be done.
- 4.3.2 A Driver must always submit to post-accident testing as soon as possible after an accident that involves the death of a human being.
- 4.3.3 A Driver must submit to a post-accident test as soon as possible after an accident, whenever the Driver receives a citation for a moving violation, involving the accident and either: (i) a person is injured because of the accident and the injuries require immediate medical treatment to the person away from the accident scene; or (ii) one or more motor vehicles involved in the accident incur disabling damage and must be transported away from the accident scene by a tow truck or another vehicle.
- 4.3.4 It is possible that a Driver will be directed to submit to a drug or alcohol test at the accident scene by a federal, state or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the Driver is required to notify the Driver's supervisor or another City official immediately to report the testing and to provide the City with the name, badge number and telephone number of the law enforcement officer who conducted the test.

- 4.3.5 Whenever a Driver is involved in a DOT accident and is not tested for drugs and alcohol by a law enforcement officer, the Driver is required to immediately report for testing, following the procedures detailed on the “Driver’s Post-Accident Testing Instructions”, which every Driver is given at the time he is hired.
- 4.3.6 A Driver who is required to take a post-accident drug or alcohol test will be placed on leave with pay, while awaiting the test results, or if the accident caused the driver to be on duty disability leave, applicable rules regarding duty disability leave will apply.
- 4.3.7 Any other employee who is involved in an accident that results in death or serious injury or substantial property loss (as determined by the City) shall also be subject to post-accident testing. The employee shall immediately notify his supervisor or other City official of the accident and obtain instructions as to required testing.
- 4.3.8 In addition to the penalties imposed by DOT for Drivers (discussed in Sections 7.13, 7.23 and 7.24 of this Policy), a Driver or other employee who tests positive for drugs or alcohol, who refuses or fails to submit to a post-accident drug and alcohol test as required, who unnecessarily delays reporting to the test site following an accident, or who otherwise fails to comply with the City’s post-accident testing procedures, will be subject to disciplinary action, up to and including discharge.

4.4 Random Testing

- 4.4.1 The City is required to test Drivers on a random basis. For drug testing, 50% of Drivers will be tested per calendar year, spread evenly throughout the year. For alcohol testing, 25% of Drivers will be tested per calendar year, spread evenly through the year. All such tests will be unannounced ahead of time.
- 4.4.2 The City’s random selection process is scientifically valid and intended that each Driver will have an equal chance of being selected each and every time the selection is conducted. Appropriate safeguards are also present to ensure that the identity of individual Drivers cannot be determined prior to or at the time of their selection.
- 4.4.3 Whenever a Driver is randomly selected to be tested, he will be notified and instructed to report to the collection site immediately.
- 4.4.4 A Driver who tests positive or who refuses to submit to a test is medically unqualified to drive or perform any other safety-sensitive function and shall not be permitted to return to work and placed on leave without pay.
- 4.4.5 In addition to the penalties imposed by DOT (discussed in Sections 7.1.3, 7.2.3 and 7.2.4 of this Policy), a Driver who refuses to submit to a random test, who fails to report for the test as directed, or who tests positive, will be subject to disciplinary action, up to and including discharge.

4.5 Reasonable Suspicion Testing

- 4.5.1 Each Driver and other employee is required to submit to a drug or alcohol test whenever the City has reasonable suspicion to believe that the Driver or other employee has used drugs or alcohol in violation of DOT regulations or this Policy.
- 4.5.2 Reasonable suspicion will exist when a Driver's or other employee's appearance, behavior, speech or body odors indicate drug or alcohol use. Such observations must be personally observed and documented by at least one City official who has received at least two (2) hours of training covering the physical, behavioral, speech and performance indicators of probable drug and alcohol use.
- 4.5.3 Written documentation must be made within twenty-four (24) hours and signed by the City official making the observation using the City of Roswell Form HRP-1508 (Observed Behavior - Reasonable Suspicion Record).
- 4.5.4 The same time standards will apply for Reasonable Suspicion Testing as are required for Post-Accident Drug Testing in accordance with Section 4.3.1 of this Policy.
- 4.5.5 Whenever a Driver or other employee is notified that there is reasonable suspicion to be tested, the Driver or other employee will be instructed to report to the collection site immediately.
- 4.5.6 A Driver or other employee who is required to submit to a reasonable suspicion test will be escorted by a City supervisor to the appropriate collection site for the test.
- 4.5.7 The City will make a reasonable effort to arrange for transportation home for the Driver or other employee by cab or other suitable means, at the expense of the Driver or other employee.
- 4.5.8 If the Driver or other employee rejects the City's efforts in this regard and instead insists on driving his personal vehicle, the City reserves the right to take whatever means are appropriate to prevent this, including contacting appropriate law enforcement personnel and imposing disciplinary action, up to and including discharge, but shall not be required to physically restrain or prevent the employee from driving where in the discretion of the City official such effort would be futile or involve risk to another person.
- 4.5.9 A Driver or other employee who is required to take a reasonable suspicion test will be considered by the City as unqualified to work and placed on leave with pay pending the results of his test.
- 4.5.10 In addition to the penalties imposed by DOT (discussed in Sections 7.1.3, 7.2.3 and 7.2.4 of this Policy), a Driver or other employee whose reasonable suspicion test is positive, or who fails or refuses to submit to a reasonable suspicion test when directed to do so by the City, will be subject to disciplinary action, up to and including discharge.

4.6 Return-to-Duty Testing

- 4.6.1 Should the City elect to consider reinstating or rehiring a Driver or other employee who violates any DOT or City policy concerning drugs and alcohol, that Driver or other employee will be required to submit to and pass the appropriate drug or alcohol test before he will be permitted to return to duty.
- 4.6.2 Before being permitted to return to duty, the Driver or other employee may also be required to execute a “last-chance” agreement, be evaluated by a SAP and submit to any follow-up testing which the SAP or the City determines is required.
- 4.6.3 In addition to the penalties imposed by DOT (discussed in Sections 7.1.3, 7.2.3 and 7.2.4 of this Policy), any Driver or other employee who refuses to submit to a return-to-duty test, who refuses to execute the City’s “last-chance” agreement, or who tests positive will be considered medically unqualified to perform a safety-sensitive function and subject to immediate discharge.
- 4.6.4 The City is not obligated, and by the inclusion of these provisions in this Policy, does not undertake or commit to any obligation under this Policy, to reinstate or rehire any Driver or other employee who violates any DOT or City policy or requirement concerning drugs or alcohol.

4.7 Follow-Up Testing

- 4.7.1 Any Driver or other employee who is determined to have a drug and/or alcohol-related problem by a substance abuse professional is required to submit to unannounced follow-up testing as one condition of being reinstated, rehired or otherwise permitted to return to duty after violating any DOT or City policy or requirement concerning drugs and alcohol.
- 4.7.2 At a minimum, a Driver will be required to submit to at least six (6) tests during the first twelve (12) months following the Driver’s return to duty. Testing under DOT authority can continue up to sixty (60) months. The frequency and the duration of the return to duty testing will be determined by the SAP. An other employee will be required to submit to at least three (3) tests during the first twelve (12) months following his return to duty. All such tests will be conducted unannounced and without prior notice being given the employee.
- 4.7.3 In addition to the penalties imposed by DOT (discussed in Sections 7.1.3, 7.2.3 and 7.2.4 of this Policy), a Driver or other employee who tests positive, or who refuses to be tested, will be considered unqualified to perform a safety-sensitive function, placed on leave without pay, and subject to other City discipline, up to and including immediate discharge.

- 4.7.4 The City is not obligated, and by the inclusion of this provision in this Policy, does not undertake or commit to an obligation under this Policy, to reinstate or rehire any Driver or other employee who violates any DOT or City policy or requirement concerning drugs and alcohol.

5.0 LEAVE OF ABSENCE PRIOR TO TESTING

- 5.1 A Driver or other employee who elects to undergo treatment for substance abuse may be eligible for leave in accordance with the City's *Personnel Rules and Regulations* and applicable laws.

6.0 TESTING METHODOLOGY AND INTEGRITY

- 6.1 To ensure the integrity and accuracy of each test, all specimen collection, analysis and laboratory procedures shall be conducted in accordance with DOT's procedural protocols and safeguards set forth in Part 40 of Title 49 of the Federal Code of Regulations. This includes, among other things: (I) procedures to ensure the correct identity of each Driver and other employee at the time of testing; (ii) a strict chain-of-custody procedure to ensure that the Driver's or other employee's specimen is not tampered with by the City; (iii) the use of a trained Breath Alcohol Technician (BAT) and DOT-approved testing devices for conducting alcohol tests; (iv) the use of a laboratory which has been certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly the National Institute for Drug Abuse [NIDA]); (v) the confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GCMS); (vi) the confirmation of an initial positive alcohol screen by a second breath test done by an Evidential Breath Testing Device; (vii) the City's appointment of a qualified MRO to review drug test results before they are reported to the City's designated representative.
- 6.2 To further facilitate the integrity and accuracy of each test, the City will provide Drivers and other employees with appropriate written and oral instructions regarding the conduct of the specific test before each testing event. The City considers all such instructions to be a part of this Policy. Drivers or other employees who refuse or otherwise fail to comply with all such instructions will be deemed to have obstructed the testing procedure.

6.3 For All Drug Tests

- 6.3.1 All drug tests conducted under this Policy require that the Driver and other employee or applicant must provide a specimen of his urine of at least 45 milliliters (ml).
- 6.3.2 At a minimum, urine specimens will be analyzed for the presence of the following drugs: (1) marijuana; (2) cocaine; (3) opiates; (4) amphetamines; and (5) phencyclidine. Specimens will also be analyzed for such other substances as DOT may from time-to-time direct, or as may otherwise be permitted by federal or state law. In the event that DOT expands the list of drugs for which testing is or may be required, the City reserves the right to begin testing immediately for those drugs without prior notice to Drivers or other employees or applicants, unless notice is required by DOT or another applicable law. The City also reserves the right to test

specimens of other employees or applicants for other employee positions for additional or fewer drugs as it shall determine appropriate.

- 6.3.3 Normally the employee or applicant will be permitted to give a urine specimen in privacy and without being observed by collection site personnel; however, the employee or applicant forfeits this right whenever there is reason to believe that he may alter or substitute a specimen.
- 6.3.4 All drugs tests will be administered using the split sample methodology required by DOT. Under this methodology, the employee or applicant must provide at least 45 milliliters (ml) in a specimen container. The specimen will then be divided into two specimen bottles by the collector. Thirty (30) ml will be poured into one bottle and fifteen (15) ml into a second bottle. Both bottles will be sent to the laboratory. The bottle containing 30 ml will be analyzed as the primary specimen. The second bottle will be held by the laboratory, to be sent to another lab at the employee's or applicant's request in the event that the primary specimen is verified as positive. In the event the primary specimen is verified as positive, the employee or applicant will be notified either by the City's MRO or by the City of the positive test and given the option to have the second bottle sent to a different laboratory for analysis. To exercise this option, the employee or applicant must advise with City's MRO, in writing, within seventy-two (72) hours of being told that the primary specimen was positive.
- 6.3.5 Except for the use of methadone and medications containing alcohol, nothing in this Policy prohibits a Driver's or other employee's use of a medication legally prescribed by a licensed physician: (I) who is familiar with the individual's medical history and specific safety-sensitive duties, and (ii) who has advised the individual that the prescribed medication will not adversely effect his ability to operate a motor vehicle safely or an other employee's ability to perform his duties safely. Drivers will be provided with a form to document compliance; failure to use this form is subject to disciplinary action, up to and including discharge. Prescription medications will not be deemed lawfully taken unless the prescription was written for the person who has taken the medication.
- 6.3.6 A "positive" drug test may be declared "negative" by the City's MRO if it can be proven with clear and convincing evidence that the drug which was used was prescribed by a licensed physician who is familiar with the individual's medical history and specific duties. The determination of this will be made by the City's MRO.

6.4 For All Alcohol Tests

- 6.4.1 All alcohol tests conducted under this Policy require that the Driver or other employee must provide a breath specimen for any confirmatory test conducted by, or on behalf of, the City. In the case of an initial alcohol test, the City may initially test the Driver or other employee for alcohol using a DOT-approved saliva testing device. In the case of an alcohol test conducted by a federal, state or local law

enforcement officer following an accident, the Driver or other employee must provide either a breath or blood specimen, as directed by the law enforcement officer.

- 6.4.2 Alcohol tests will be administered by a trained BAT or Screening Test Technician (STT) using an approved breath testing device, except in cases of on-scene post-accident testing conducted by federal, state or local law enforcement officers.
- 6.4.3 Before being tested by the City, each Driver or other employee will be required to: (i) present his personal identification and (ii) execute a “Breath Alcohol Test Form” provided by the BAT/STT. A Driver or other employee who refuses to provide his identification, provides a false identification, refuses to execute the “Breath Alcohol Test Form” or who otherwise refuses or fails to cooperate will be treated as though he had tested positive and will be subject to disciplinary action, up to and including discharge, in addition to the penalties imposed by DOT.
- 6.4.4 Prior to each alcohol breath test conducted by the City, the BAT/STT will instruct the Driver or other employee on how the test will be performed.
- 6.4.5 To protect each Driver and other employee, the BAT/STT will open the testing device in the Driver’s or other employee’s view. The Driver or other employee will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained.
- 6.4.6 In the event that a Driver or other employee is unable to provide an adequate amount of saliva for an initial alcohol test which the City may conduct, the STT is required to conduct a second test using a new device. If the Driver or other employee is unable to provide an adequate amount of saliva for the second test, the saliva test will be terminated and the City notified. In this event, the Driver or other employee will then be required to submit to a breath test.
- 6.4.7 In the event that a Driver or other employee is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the Driver or other employee will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid medical condition does exist, the test result will be reported to the City as “negative”. If the physician determines that a valid medical condition does not exist, the test result will be reported to the City as a refusal which is treated as a “confirmed positive”. The City also reserves the right to alternate forms of testing as it deems appropriate.

7.0 TEST RESULTS

7.1 For Drug Tests

- 7.1.1 In the event that the test result of a primary specimen is positive, the employee or applicant will be notified by the City or its MRO and advised that he has seventy-two (72) hours to request, in writing, that the MRO send his secondary specimen to a

second, City-approved laboratory for analysis. Pending the outcome of this additional analysis, the employee or applicant will continue being considered physically unqualified to work and placed on leave with pay.

- 7.1.2 Before a test result will be confirmed positive for drugs, the employee or applicant will be given the opportunity to speak with the City's MRO and demonstrate that there was a lawful medical explanation for the positive test result. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the City as "negative". If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as a "confirmed positive". It is the employee or applicant's responsibility to be reasonably available to speak with the City's MRO.
- 7.1.3 No Driver or other employee who tests positive for drugs will be permitted to return to duty unless and until he complies with the requirements of Sections 4.6 and 4.7 of this Policy.

7.2 For Alcohol Tests

- 7.2.1 In the event that the Driver or other employee provides an adequate breath or saliva specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be reported to the City as a "negative" and no additional test will be required at that time.
- 7.2.2 In the event that the Driver or other employee provides an adequate breath or saliva specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. In the event that the Driver or other employee provides an adequate breath or saliva specimen and the confirmatory test registers less than 0.02, the test result will be reported to the City as "negative".
- 7.2.3 DOT prohibits any Driver whose confirmatory test registers 0.02 or more but less than 0.04 from performing or from continuing to perform any safety-sensitive function until the Driver's next regularly-scheduled duty period, but for no less than twenty-four (24) hours during which time the employee will be placed on leave with pay and may be subject to disciplinary action by the City, up to and including discharge.
- 7.2.4 A Driver who, after providing an adequate breath specimen, has a confirmatory test which registers 0.04 or greater will be removed from the safety-sensitive function and referred to a SAP for assessment and an evaluation. The driver must also be cleared to return to duty by the SAP and may be subject to disciplinary action, up to and including discharge.

- 7.2.5 Other employees who register 0.04 or greater on an alcohol test will, at a minimum, be placed on leave with pay until his next regularly-scheduled duty period, but for no less than twenty-four (24) hours and may be subject to disciplinary action, up to and including discharge.

8.0 MAINTAINING CONTACT WITH THE COMPANY AND MRO AFTER A DRUG TEST

- 8.1 Employees and applicants who are tested for drugs are required to remain in contact with the City and the City's MRO while awaiting the results of their tests and required to advise the City of their whereabouts and the telephone number where they can be reached during this time.
- 8.1.1 The City's MRO is Dr. Anthony T. Reeve, MD, whose telephone number is (505) 622-6365. The MRO may change and updated information will be available in the City's Human Resources Office.
- 8.2 An employee who refuses or fails to remain in contact with the City and City's MRO as required herein will be considered insubordinate and subject to disciplinary action, up to and including discharge and in addition, may waive his right, under Section 7.1.2 of this Policy, to speak with the City's MRO before a test is confirmed positive.
- 8.3 An applicant who refuses or fails to remain in contact with the City and City's MRO as required herein may have his conditional offer of employment withdrawn and not be eligible for hire with the City for a period of 120 days and in addition, may waive his right, under Section 7.1.2 of this Policy, to speak with the City's MRO before a test is confirmed positive.

9.0 RECORD RETENTION

- 9.1 The City's Human Resources Director shall retain all records of drug and alcohol testing and related information in accordance with DOT regulations and other applicable laws.

10.0 REPORTING

- 10.1 The City's Human Resources Director shall prepare and maintain a summary of the results of drug and alcohol testing and related information in accordance with DOT regulations and other applicable laws.

11.0 MRO REPORTING

- 11.1 The MRO must submit signed, written notification to the City within three (3) business days of completion of all MRO reviews.

12.0 DRUG AND ALCOHOL INFORMATION

- 12.1 The City is required to provide education materials for all Drivers, explaining the DOT's requirements and the City's policies and procedures to meet those requirements. The City will provide Drivers and other employees with information concerning: (i) the effects of

drugs and alcohol on an individual's health, work and personal life; (ii) the signs and symptoms of a drug or alcohol problem; (iii) the available methods of intervention when a problem does exist; and (iv) this Policy.

- 12.2 Each Driver and other employee is required to certify that he has been given a copy of this Policy and other drug and alcohol information by the City in accordance with of this Policy. In accordance with Section 4.2.3 of this Policy, applicants are required to execute the "Authorization to Obtain Past Drug and Alcohol Test Results" form as a condition of being hired. An applicant who refuses to do so will not be hired. Drivers or other employees who refuse to execute this required form will be subject to discipline, up to and including discharge.
- 12.3 Any existing Driver or other employee who engages in any conduct prohibited under this Policy will be provided with information concerning the resources available to evaluate and resolve a drug or alcohol problem and the names, addresses and telephone numbers of substance abuse professionals, counseling and treatment programs.
- 12.4 All questions concerning the educational materials provided by the City, or about this Policy, should be directed to the appropriate person identified on the "Contact List" which accompanies this policy.

13.0 PAYMENT OF TESTS

- 13.1 Except as provided below, the City will pay for all tests conducted pursuant to this Policy.
- 13.2 Drivers and other employees are responsible for paying the costs of the analysis of any secondary urine specimen which they request under Section 7.1.1 of this Policy, except as otherwise required by applicable law.

14.0 CONFIDENTIALITY

- 14.1 The results of all individual drug and alcohol tests will be kept in a secure location by the City's Human Resources Director, with controlled access.
- 14.2 All individual test results will be considered confidential. Test results will only be released in accordance with an individual Driver's or other employee's written authorization or as is otherwise required by DOT regulations or by other applicable law.

15.0 CONTACT LIST FOR QUESTIONS REGARDING THIS POLICY

- 15.1 Any questions regarding this Policy or any other aspect of the drug-free and alcohol-free program should contact the following representatives:

Contact Person

City of Roswell
Stacye L. Hunter, Human Resources Director
425 N. Richardson
Roswell, NM 88201
(505) 624-6700 ext. 269

Collection Locations

Drug & Alcohol

Industrial Rehabilitation Clinics, P.C.
311 W. Country Club Road
Roswell, NM 88201
(505) 622-6365

Medical Review Officer

Anthony T. Reeve, MD
311 W. Country Club Rd.
Roswell, NM 88201
(505) 622-6365

Insurance

Walt Ramirez, Human Resources Clerk II
425 N. Richardson
Roswell, NM 88201
(505) 624-6700 ext. 244

DRIVER POSITIONS COVERED BY THIS POLICY

Air Center Maintainer
Automated Collection Operator
Automated Collection Supervisor
Automotive Maintainer
Automotive Mechanic I
Automotive Mechanic II
Automotive Shop Supervisor
Equipment Operator I
Equipment Operator II
Grounds Maintainer II - Parks
Grounds Maintainer II - Golf Course
Heavy Equipment Mechanic
Sanitation Worker I
Sanitation Worker II
Street Maintainer I
Street Maintainer II
Street Sweeper Operator I
Water & Sewer Maintainer I
Water & Sewer Maintainer II
Zoo Grounds Maintainer II

OTHER EMPLOYEES COVERED BY THIS POLICY

For purposes of Post-Accident Testing, Reasonable Suspicion Testing, Return-to-Duty Testing and Follow-Up Testing, all City positions are subject to applicable provisions of this Policy.